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26 JUL 2006

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In re Application of SEDERLJUNG et al.
Application No.: 10/521,653
PCT No.: PCT/SE03/01074
Int. Filing: 23 June 2003
Priority Date: 15 July 2002
Attorney Docket No.: 821-70
For: A DEVICE IN A VEHICLE ADAPTED
TO HANDLE LOADS

:
: DECISION ON
:
: RENEWED PETITION
:
: UNDER 37 CFR 1.47(a)
:
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This is a decision on applicant's renewed petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 23 June 2006, to accept the application without the signature of joint inventor, Kurt Dahlström. Petitioner requests a one month extension of time, which is granted.

BACKGROUND

On 14 January 2005, applicant filed a transmittal letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee.

On 22 July 2005, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating *inter alia*, that an oath or declaration in accordance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period was required.

On 21 December 2005, applicant filed the instant petition along with a declaration, executed by the joint inventors on behalf of the deceased inventor, Kurt Dahlström and his nonsigning legal representative. The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signature of deceased inventor Kurt Dahlström, alleging that Mr. Dahlström's legal representative refuses to sign the application.

On 28 March 2006, a decision dismissing the petition was mailed to applicant indicating that the last known address of non-signing legal representative of the deceased inventor was not provided and the declaration executed by the available joint inventor did not satisfy the requirements of 37 CFR 1.47(a) as it did not comply with 37 CFR 1.497(a) and (b).

On 23 June 2006, Petitioner filed a renewed petition along with a newly executed declaration.

DISCUSSION

Refusal of Legal Representative to Sign Application Papers

As previously stated, a petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Item (1) and Item (2) were previously satisfied.

Item (3) is now satisfied because the last known address of non-signing legal representative of the deceased inventor was provided.

With regard to item (4), a new declaration, executed by the available joint inventor and in compliance with 37 CFR 1.497(a) and (b) has been submitted. The declaration only identifies joint inventor Max Sederljung and the deceased inventor Kurt Dahlström and his legal representative, Johanna Dahlström. In compliance with 37 CFR 1.497(a) and (b), the declaration states the citizenship, mailing address and residency of all inventors, including that of the deceased inventor and the legal representative.

In sum, Petitioner has satisfied Items (1) - (4) above. It is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

Status under 37 CFR 1.42

The legal representative of a deceased inventor must make the application for patent "on the same terms and conditions applicable to the inventor." 35 U.S.C. 117. To this end, 37 CFR 1.497(b)(2) states, in pertinent part,:

If the person making the oath or declaration or any supplemental declaration is not the inventor (§§1.42, 1.43 or §1.47), the oath or declaration shall state the relationship of the person to the inventor...and the citizenship, residence and mailing address of the legal representative.

37 CFR 1.497(b)(2) requires the declaration to *state the relationship* of the person(s) (under 37 CFR 1.42) making the declaration for a deceased inventor and *state the citizenship, residency and mailing address of the heir(s)/legal representative* as well as that of the deceased inventor. The declaration provides the citizenship, residency and last known mailing address for the deceased inventor and for his legal representative. The declaration identifies Johanna Dahlström as the legal representative of Kurt Dahlström as required by 37 CFR 1.497(b)(2).

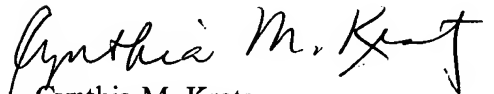
Accordingly, the request for status under 37 CFR 1.42 is also granted.

CONCLUSION

The petition under 37 CFR §1.47(a) is GRANTED. The request for status under 37 CFR 1.42 is GRANTED.

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 23 June 2006. The application has an international filing date of 23 June 2003 under 35 U.S.C. 363, and a date of 23 June 2006 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventors at their respective last known address of record. Also, a notice of the filing of this application will be published in the Official Gazette.


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Dear Ms. Dahlstrom:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.


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